

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Teresa Jano	:	
	:	
v.	:	C-2019-3008463
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

**INTRODUCTION**

A residential customer filed a complaint seeking to prevent an electric distribution company (EDC) from installing a smart meter a/k/a “Advanced Metering Infrastructure (AMI) meter” or “Radio Frequency (RF) meter” on her residence. The complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of the smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501 or otherwise violates the Public Utility Code, a Commission order or regulation or a Commission-approved tariff of the company.

**HISTORY OF THE PROCEEDING**

On March 11, 2019, Teresa Jano (Complainant) filed the instant Complaint with the Pennsylvania Public Utility Commission (Commission) averring she wishes to opt-out of a smart meter installation at her residence, 215 West Union Street, Pottsville, Pennsylvania (account number ending in 062) pursuant to Act 129 of 2008. She contends that the General Assembly intended 2807(f)(2)(i), 66 Pa. C.S. § 2807(f)(2)(i), to give homeowners the option of choosing whether or not

they wanted a smart meter to be installed. The complainant also stated that it is an error to mandate the installation of these devices.

The Complaint was served upon PPL Electric Utilities Corporation (PPL, PPL Electric, Company or Respondent) on March 12, 2019.<sup>1</sup> On April 1, 2019, Respondent filed an Answer. The Answer admitted that the Respondent provides electric service to the Complainant at the address shown on the Complaint. The Answer contends that the Respondent is required to install AMI, or smart meters, for all automatic meter reading (AMR) customers and that it has the right to terminate service for failure of the customer to permit access to the meter.

On April 3, 2019, a Hearing Notice was issued scheduling a hearing for October 7, 2019 and assigning the case to me as presiding officer. A Prehearing Order was issued on April 4, 2019. PPL filed a Motion to Compel discovery responses on September 12, 2019. On September 23, 2019, PPL requested a continuance of the hearing until October 31, 2019, due to the unavailability of two of its witnesses. As PPL's request was unopposed, on September 25, 2019, a Call-In Telephonic hearing change Notice was issued rescheduling the October 7, 2019 hearing to October 31, 2019. An Order Granting Motion to Compel was issued on September 30, 2019. The hearing was held on October 31, 2019.

At the hearing, Complainant appeared *pro se* with several exhibits including: Answers to Interrogatories, Senate Bill 791, letters, articles, abstracts, medical reports and a meter opt-out chart. Respondent appeared represented by Devin Ryan, Esquire and Curtis Renner, Esquire with 15 exhibits and four witnesses: Donald Vinciguerra, Kevin Durkin, Christopher Davis, Ph.D., and Mark Israel, M.D. A transcript of the hearing was filed on November 8, 2019, and the record closed on November 8, 2019. This case is ripe for a decision.

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<sup>1</sup> PPL signed a waiver of the Section 702 requirement for registered or certified mail service of formal complaints, 66 Pa. C.S. § 702, and agreed to electronic service under the Commission's waiver of 702 program. *See In Re: Electronic Service of Formal Complaints*, Secretarial Letter Dated December 22, 2014, at Docket Nos. M-2013-2398153 *et al.* Service is listed in the electronic Audit History of the case as entered by the Secretary's Bureau as having been affected on March 12, 2019. Thus, PPL's Answer filed on April 1, 2019 is deemed timely filed.

## FINDINGS OF FACT

1. The Complainant in this proceeding is Teresa Jano, who resides at 215 West Union Street, Pottsville, Pennsylvania (account number ending in 062). Tr. 6-7.

2. Complainant requests a smart meter not be installed at the service address and she wished to continue to use a powerline carrier (PLC) meter. Tr. 7-8, PPL Electric Statement No. 3 at 4.

3. The Respondent in this proceeding is PPL Electric Utilities Corporation, an electric distribution company (EDC). Tr. 12.

4. On June 30, 2014, PPL filed its new Smart Meter Plan intended to comply with all the requirements of Act 129 and the Commission's Smart Meter Implementation Order. PPL Electric Exhibit No. 3.

5. PPL selected Radio Frequency ("RF") Mesh meters and metering system because the Company determined that the RF Mesh system would support the 15 capabilities required by Act 129 and the Smart Meter Implementation Order. PPL Electric Exhibit No. 3 at 5-6.

6. Under the Smart Meter Plan, the RF Mesh meters are to be deployed between 2017 and 2019 for all of PPL's 1.4 million customers. PPL Electric Exhibit No. 3.

7. PPL had deployed over 1,000,000 RF Mesh meters as of the October 31, 2019 hearing. PPL Electric Exhibit No. 3.

8. On December 20, 2018, and January 10, 2019, PPL sent Complainant letters notifying her that it intended to install the new AMI meter on her residential property within approximately the next six weeks and three weeks, respectively. PPL Electric Statement No. 3 at 6.

9. The RF Mesh meter to be installed for the Complainant's residential account is the Landis + Gyr Focus AXR-SD meter. PPL Electric Statement No. 4 at 6.
10. Complainant's residential service property is a single-family home in the City of Pottsville. Tr. 6-7.
11. Complainant has a bachelor's degree in humanities from Queens College, New York. Tr. 51.
12. Complainant does not have a degree in physics, biophysics, chemistry, electrical engineering, electromagnetics, bioelectromagnetics, or medicine. Tr. 52-53.
13. Complainant worked as an income maintenance caseworker at the Schuylkill County Assistance office, but left her job due to health issues. Tr. 44.
14. Complainant is sensitive to mold. Tr. 43-44, Complainant Exhibit O.
15. Complainant has a history of heart arrhythmia. Tr. 44, Complainant Exhibit P.
16. Complainant does not have a television, computer, microwave oven, GPS, Bluetooth, smart appliances, or a smart phone. Tr. 47, 54.
17. Complainant uses a Trac-phone cell phone, which she keeps turned off until she makes a call out. Tr. 54.
18. Complainant uses computers and printers in the public library and at Staples when necessary. Tr. 53.
19. The Landis + Gyr Focus AXR-SD meter is certified by the Underwriters Laboratories at UL 2735. Tr. 53.

20. The Landis + Gyr Focus AXR-SD meter is compliant with American National Standards Institute (ANSI). PPL Electric Statement No. 4 at 8.

21. PPL Witness Davis has a Ph.D. in Physics and is a fulltime Professor with an endowed Chair at the University of Maryland, where for over 30 years he has taught Physics, Electrical Engineering, Electromagnetics, and RF Electromagnetics to undergraduate and graduate students. PPL Electric Statement No. 1 at 1-5.

22. In addition to his teaching, Dr. Davis is an active scientific researcher in the fields of Physics, Biophysics, Electrical Engineering, Bioelectromagnetics and RF Bioelectromagnetics, conducting many scientific studies in these fields and publishing over 250 studies in peer-reviewed scientific journals. PPL Electric Statement No. 1 at 1-5.

23. Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3.

24. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6.

25. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-6, 12.

26. The Federal Communications Commission (FCC) has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10.

27. The FCC safe public exposure limits are based on evaluations of the body of scientific research on RF fields and were adopted in consultation with other federal agencies,

including the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). PPL Electric Statement No. 1 at 9-10.

28. The levels of RF fields from the Landis + Gyr Focus AXR-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 13, PPL Electric Exhibit CD2.

29. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

30. The studies conducted by Dr. Panagopoulos as referenced in Complainant Exhibits G and J report data on studies conducted regarding the effect of radiofrequency on fruit flies, not mammals or humans. Tr. 61-62.

31. Complainant Exhibit I is 9 pages of an article commenting on the National Toxicology Program<sup>2</sup> (NTP) Study entitled "Peer Review of the Draft NTP Technical Reports." Tr. 62.

32. The lowest level of radiofrequency fields used in the NTP study on rats and mice was a Structure-Activity Relationship of 1.5 watts per kilogram, which is 18 times higher than the maximum exposure approved by the FCC, and probably in excess of 100,000 times the exposure a human would receive from a smart meter. Tr. 63.

33. Any effects seen in rats/mice could well have been caused by effects on the thermoregulatory system of the animals who were being constantly exposed to a not high but enough level of hearing that they were aware of it. Tr. 66.

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<sup>2</sup> NTP is a federal, interagency program whose goal is to safeguard the public by identifying substances in the environment that may affect human health.

34. Complainant Exhibit L is an abstract by Dr. Velizarov of the Bulgarian Academy of Sciences, regarding non-thermal effects from radiofrequency fields, which Dr. Davis was unfamiliar with. Tr. 64-65.

35. It is not generally accepted in the scientific community that radiofrequency fields have non-thermal effects on humans. Tr. 65.

36. Radio frequency fields do not have the energy to break chemical bonds in DNA and therefore are non-ionizing. PPL Electric Statement No. 1 at 8.

37. There are twelve television broadcast towers within a 50-mile radius of Complainant's location in Pottsville, Pennsylvania. PPL Electric Statement No. 1 at 15.

38. Based on the locations of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 11.5 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5.

39. The RF exposure from a cell phone used at a person's head is 260,000 times higher than the average RF levels one meter away from the Company's new smart meter. PPL Electric Statement No. 1 at 14.

40. PPL Witness Israel received his undergraduate degree from Hamilton College and his medical degree from the Albert Einstein College of Medicine, and he completed his medical training at Harvard Medical School. PPL Electric Statement No. 2 at 1.

41. Dr. Israel is a Professor of Medicine, Pediatrics, and Molecular and Systems Biology at the Dartmouth Medical School and the Executive Director of the Israel Cancer Research Fund in New York, an international charitable fund for medical and scientific research programs. PPL Electric Statement No. 2 at 1.

42. Dr. Israel is board certified and licensed to practice medicine. PPL Electric Statement No. 2 at 3.

43. Dr. Israel has conducted medical research for 40 years in a wide variety of areas, including systems biology, biochemistry, cell biology, cancer, molecular biology, and molecular genetics and has published over 245 medical research studies in leading peer-reviewed scientific journals. PPL Electric Statement No. 2 at 3-4.

44. Dr. Israel has taught medicine and science for more than 30 years to medical students, graduate students, interns, residents, and practicing physicians in a number of fields, including endocrinology, immunology, hematology, neurology, cardiology, biochemistry, cell biology, genetics, molecular genetics, medical oncology, and radiation oncology. PPL Electric Statement No. 2 at 3.

45. Claimed symptoms related to Electromagnetic Hypersensitivity (EHS) are more accurately described as “Idiopathic Environmental Intolerance” (IEI), in which “idiopathic” means “cause unknown,” rather than electromagnetic hypersensitivity. PPL Electric Statement No. 2 at 13.

46. Complainant showed an article entitled “Mold Produces 600 Times More Bio-Toxins with EMF”. Complainant Exhibit N.

47. Complainant Exhibit O is medical records dated June 26, 2018 showing Complainant had no antibody reaction to exposure to three types of molds, and a low to moderate level reaction to *Alternaria alternate* (M6) IGE. Complainant Exhibit O, Tr. 78-79.

48. There are no established medical criteria for the diagnosis or treatment of IEI. PPL Electric Statement No. 2 at 16.

49. IEI and the variety of symptoms attributed to it are not caused by exposure to RF fields. PPL Electric Statement No. 2 at 13, Tr. 86.

50. The World Health Organization and a number of other public health authorities have concluded that the scientific research on RF exposures from cell phone use,

which are far higher than the RF from PPL’s smart meters, has not shown that RF fields cause adverse health effects. PPL Electric Statement No. 2 at 10-15, PPL Electric Exhibit MI-1.

51. Several U.S. state public health authorities also have investigated claims about health effects from smart meters and have concluded that there is no credible scientific evidence that RF fields from smart meters will cause or contribute to any adverse health effects. PPL Electric Statement No. 2 at 11, PPL Electric Exhibit MI-2.

52. There are no reliable consistent studies on whether exposure to RF fields causes or contributes to cancer in laboratory animals. Tr. 86-87, PPL Electric Statement No. 2 at 16.

53. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 16.

54. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, or any other adverse health effects. PPL Electric Statement No. 2, Tr. 96-99.

55. PPL never issued Complainant a notice of termination. Tr. 96-97, PPL Electric Statement No. 3 at 8.

## DISCUSSION

### Legal Standards

Under Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), “the proponent of a rule or order has the burden of proof.” It is well-established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”

*Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. *MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. See *Reprogle v. Pa. Elec. Co.*, 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order entered Oct. 9, 1980); see also *Dist. of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941); *Application of Pennsylvania-American Water Co. for Approval of the Right To Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Portions Of Mahoning Twp., Lawrence County, Pa.*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Order entered Oct. 29, 2008).<sup>3</sup>

In addition, a person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, “taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive.” *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision) (“*Woodbourne-Heaton*”).

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<sup>3</sup> In addition, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Grp. v. Pa. Pub. Util. Comm'n*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008) (citation omitted). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

Rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Id.* at \*211. Specifically, in AMI meter-related matters, the Commission has held that “[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015); *see also Romeo v. Pa. Pub. Util. Comm’n*, 154 A.3d 422, 429 (Pa. Cmwlth. 2017) (finding that the smart meter complainant should have a hearing to try to prove his claim through “the testimony of others as well as other evidence that goes to that issue”).

Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa. C.S. § 701. Therefore, a complainant must generally demonstrate that the public utility violated the Public Utility Code or a Commission regulation or order.

The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. *See Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted). Section 1501 of the Public Utility Code states, in pertinent part, that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. . .

66 Pa. C.S. § 1501.

When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the Complainant was adversely affected by the smart meter or whether [the utility’s] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064 at 23 (Opinion and Order entered January 28, 2016) (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13). *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 at 10 (Opinion and Order entered May 3, 2018).

A public utility’s Commission-approved tariff is prima facie reasonable, has the full force of law and is binding on the utility and the customer. 66 Pa.C.S. § 316, *Kossmann v. Pa. Pub. Util. Comm’n*, 694 A.2d 1147 (Pa. Cmwlth. 1997) (*Kossmann*); *Stiteler v. Bell Telephone Co. of Pennsylvania*, A.2d 339 (Pa. Cmwlth. 1977) (*Stiteler*).

Under the relaxed evidentiary standards applicable to administrative proceedings, see 2 Pa. C.S. § 505, it is well-settled that simple hearsay evidence, which otherwise would be inadmissible at a trial, generally may be received into evidence and considered during an administrative proceeding. *D’Alessandro v. Pennsylvania State Police*, 937 A.2d 404, 411, 594 Pa. 500, 512 (2007) (*D’Alessandro*). The Supreme Court of Pennsylvania stated: “Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Pa.R.E. 801(c). Hearsay evidence is normally inadmissible at trial unless an exception provided by the Pennsylvania Rules of Evidence, jurisprudence, or statute is applicable. Pa.R.E. 802. Therefore, hearsay evidence may generally be received and considered during an administrative proceeding. See *A.Y. v. Pa. Dep’t of Pub. Welfare, Allegheny County Children & Youth Serv.*, 537 Pa. 116, 641 A.2d 1148, 1150 (1994).

However, whether simple hearsay may support a finding of an agency depends on whether the evidence meets the criteria of the *Walker/Chapman* rule. The *Walker/Chapman* rule provides that simple hearsay evidence may support an agency’s finding of fact so long as the

hearsay is admitted into the record without objection and is corroborated by competent evidence in the record. *See Walker v. Unemployment Compensation Board of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (*Walker*) (citations omitted); *see also Chapman v. Unemployment Compensation Board of Review*, 20 A.3d 603, 610, n.8 (Pa. Cmwlth. 2011) (*Chapman*).

Under Pennsylvania’s *Walker/Chapman* Rule, it is well-established that “[h]earsay evidence, properly objected to, is not competent evidence to support a finding.” Even if hearsay evidence is “admitted without objection,” the ALJ must give the evidence “its natural probative effect and may only support a finding . . . if it is corroborated by any competent evidence in the record,” as “a finding of fact based solely on hearsay will not stand.” *Walker* at 370 (citations omitted).

To be “properly objected to” in an administrative proceeding, the hearsay evidence must not fall within one of the recognized exceptions to the rule against hearsay. Hearsay that falls within one of the recognized exceptions to the hearsay rule is competent evidence that may be relied upon by the agency. *See Chapman, supra*, n. 8 (finding that the Board properly relied upon a party’s admission as competent evidence as a recognized exception to the hearsay rule); *see also Sanchez v. PPL Electric Utilities Corporation*, Docket No. C-2015-2472600 (Order entered July 21, 2016) (*Sanchez*) (finding that testimony related to the issuance of a termination letter fell within the business records exception to the hearsay rule, and, therefore, was not simple hearsay, and was competent evidence to be relied upon in the proceeding to determine whether the complainant satisfied her burden of proof); *see also Pa.R.E.* 802, 803, 803.1 and 804.

### Health and Safety Concerns

Complainant claims she has suffered from mold sensitivity and heart arrhythmia issues, which will be exacerbated by the electromagnetic fields of an AMI meter. Complainant offered in support of her claims an Allergen Report from Quest dated June 26, 2018, showing a moderate sensitivity to *Alternaria Alternata* (M6) and *Penicillium Notatum* (M1) IGE. Complainant Exhibit O. She also offered a Cardiac Monitor Report dated December 11, 2018,

signed by Andrew Waxler, MD. Complainant Exhibit P. She contends her physical ailments will become aggravated by the installation of an AMI meter at her residence. Thus, it is unreasonable service to allow PPL to install the AMI meter at this location.

Conversely, PPL contends Complainant may have Idiopathic Environmental Intolerance (IEI) and has failed in her burden of proving she has been medically diagnosed with EHS or that her mold sensitivity or any heart arrhythmia she may have is caused by or would be worsened by the AMI meter to be installed at her service property.

### Disposition

Complainant tries to avoid some electromagnetic fields in her home as she does not have a home computer, microwave oven, smart phone, GPS, or Bluetooth. However, she does have a wireless Trac-phone, which she turns off unless she needs to make a call out. Complainant argues she can turn off her phone, but she can't turn off the AMI meter, which will cause deleterious health effects to her mold sensitivity, heart arrhythmia, and may cause cancer.

Complainant offers as support for her position Exhibits O (Quest Allergen Report dated June 26, 2018) to show her allergy to molds and Exhibit P – Cardiac Monitor Report to show she has an arrhythmia. She also offered the following articles entitled:

- *Evaluation of Specific Absorption Rate<sup>4</sup> as a Dosimetric Quantity for Electromagnetic Fields Bioeffects*, Complainant Exhibit G;
- *World's Largest Animal Study on Cell Tower Radiation Confirms Cancer*, Complainant Exhibit H;
- *“Peer-Review of the Draft NTP Technical Reports on Cell Phone Radiofrequency Radiation”* Complainant Exhibit I;

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<sup>4</sup> Specific Absorption Rate (SAR) is defined as the amount of absorbed non-ionizing radiation power (or rate of absorbed energy) by unit mass of biological tissue.

- “*Real Versus Simulated Mobile Phone Exposure Experimental Studies,*” Complainant Exhibit J;
- “*FCC’s Cell Phone Testing Dummy is Larger than 97% of all Cell Phone Users,*” Complainant Exhibit K (to support her claim that cell phone radiation is absorbed by the brain);
- “*The effects of radiofrequency fields on cell proliferation are non-thermal,*” Complainant Exhibit L;
- “*EMFs and Indoor Mold – The Connection,*” Complainant Exhibit M;

Additionally, Complainant offered congressional letters from Thomas R. Suozzi and Peter A. DeFazio, Members of Congress, to the FCC urging it be transparent about its research on RF radiation and to make efforts to inform the public about the research in a detailed manner. Complainant Exhibits B, C, D, and E. Finally, Complainant offered a letter from the American Academy of Environmental Medicine to the Office of the Secretary of the Federal Communications Commission at ET Docket No. 13-84. Complainant Exhibit F.

I gave some weight to Complainant’s Exhibit Nos. B, C, D, E, F, O and P (medical reports), and Complainant Statement No. 1 (Answers to Interrogatories). However, Complainant Exhibits Nos. G, H, I, J, K, L, M and N are articles written by authors who were not available to be cross-examined by Respondent. Therefore, I give them little or no weight. Complainant holds a bachelor’s degree in humanities from Queens College and worked as an Income Maintenance worker until she stopped due to health reasons. She is not a qualified expert in the areas of: medicine, physics, biophysics, electromagnetic biophysics, chemistry, electrical engineering or dosimetry. I gave little or no weight to her opinion, which was based upon these articles and draft peer review abstracts, which were successfully refuted by Dr. Israel and Dr. Davis. 66 Pa. C.S. § 332(c). *Answerphone, Inc. & Elite Answering Serv. v. The Bell Tele. Co. of Pa.*, 1993 Pa. PUC LEXIS 70, at \*29-30 (Order entered April 1, 1993). PPL objected to these exhibits on the grounds that they contained hearsay evidence.

I am persuaded to find Complainant has a mold sensitivity and possibly a heart arrhythmia. Tr. 81, Complainant Exhibits O and P. However, the evidence is inconclusive that

radio frequency fields from an AMI mesh meter would cause or exacerbate these health issues. Complainant's testimony based upon the hearsay articles she submitted is insufficient to refute the credible testimonies of Dr. Israel and Dr. Davis.

Dr. Israel, testified Complainant Exhibit P found “[n]o atrial fibrillation or atrial flutter observed.” Tr. 81. Ms. Jano argues that if the two-week study had been longer, she could have been found to have experienced atrial fibrillation. Tr. 82-83. I cannot conclude from this evidence that Complainant has atrial fibrillation. Such a conclusion would be based upon conjecture. However, it is possible that she has an arrhythmia. Even so, there is insufficient evidence to show that any arrhythmia Complainant might have is caused by Complainant's exposure to electromagnetic fields at intensities well below the maximum levels permitted by the FCC's radiation safety standards.

Dr. Israel describes EHS as an IEI, which has an unknown cause. PPL Electric Statement No. 2 at 13. The symptoms of EHS seem to vary widely and there is a psychological component to EHS. In giving his opinion, Dr. Israel relied on reports, “[i]t is the IEI-EMF individuals' belief that exposure to RF EMFs will cause harm, rather than actual exposure itself, that results in the presence of symptoms in IEI-EMF individuals.” PPL Electric Statement No. 2 at 14.

I am persuaded by the credible testimony of Dr. Israel, who testified that claimed symptoms related to EHS are more accurately described as IEI in which “idiopathic” means “cause unknown.” PPL Electric Statement No. 2 at 12-13. Dr. Israel evaluated the few medical records produced by the Complainant in this proceeding, which were prepared in 2018. Tr. 77-78.. Notably, these medical records do not include any description of the physician evaluating or diagnosing electromagnetic sensitivity. PPL Electric Statement No. 2.

Dr. Israel also evaluated scientific research on RF fields and adverse health effects generally. He testified that he has been systematically examining this research over the past several decades and that many hundreds of studies have been published. PPL Electric Statement No. 2 at 6-8. He testified that three groups of controlled laboratory studies on animals

“are particularly informative because they address fundamental biological functions that are very sensitive to any disruption: genetics, reproduction, and growth and development.” PPL Electric Statement No. 2 at 8. Dr. Israel described a number of the studies in these areas which he considered good examples of well-designed and well-conducted studies. These studies found no adverse effects on genetics, fertility, reproduction, growth or development in the animals exposed to RF fields. PPL Electric Statement No. 2 at 8-9. Dr. Israel also provided examples of well-conducted animal studies on RF fields and cancer. He testified that these studies, which involved animals with lifetime exposures to RF fields, did not find any increased incidence in cancer in the RF exposed animals compared to non-exposed animals. PPL Electric Statement No. 2, p. 9-10.

Based on the body of scientific research showing no consistent and reproducible effects from RF fields on cancer and other adverse health effects, the World Health Organization (“WHO”) has concluded that “no adverse health effects have been established as being caused by mobile phone use.” PPL Electric Statement No. 2 at 10. A number of other public health authorities, including agencies in Canada, the U.K., Sweden, Norway, the Netherlands, and New Zealand, among others, have recently reached similar conclusions. PPL Electric Statement No. 2 at 10; PPL Electric Exhibit MI-1. In addition, several U.S. state public health authorities and Public Utility Commissions have investigated claims about health effects from smart meters. These include the Maine Center for Disease Control (2010), the Vermont Department of Health (2012), Arizona Department of Health, Office of Environmental Health (2014), and North Carolina Department of Health and Human Services, Division of Public Health, Occupational and Environmental Epidemiology Branch (2015). These evaluations by State public health authorities and Public Utility Commissions conclude that RF fields from smart meters do not pose any public health risk. PPL Electric Statement No. 2, p. 11; PPL Electric Exhibit MI-2.

There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL Electric will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 16. There is no reliable medical basis to conclude that RF fields from the AMI meter being used by PPL Electric would cause, contribute to, or exacerbate any of

the symptoms claimed by the Complainant, including tinnitus, or any other adverse health effects. PPL Electric Statement No. 2 at 16.

Additionally, on this issue, I find credible the expert testimony of PPL witness Dr. Christopher Davis who opined the Landis + Gyr AMI meter would not cause adverse health effects. Complainant's articles hold less weight than the studies relied upon by Dr. Davis in forming his expert opinion as they are not published in scientific or medical journals.

Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-6, 12.

The FCC has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10. The FCC safe public exposure limits are based on evaluations of the body of scientific research on RF fields and were adopted in consultation with other federal agencies, including the FDA and the EPA. PPL Electric Statement No. 1 at 9-10.

The levels of RF fields from the Landis + Gyr Focus AXR-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 13, PPL Electric Exhibit CD2. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

There are 12 television broadcast towers within a 50-mile radius of Complainant's location in Pottstown, Pennsylvania. PPL Electric Statement No. 1 at 15. Based on the locations

of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 11 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5. The RF exposure from a cell phone used at a person's head is 260,000 times higher than the average RF levels 1 meter away from the Company's new smart meter. PPL Electric Statement No. 1 at 14. For all of these reasons, I find in favor of PPL on this issue.

### Opt-In versus Opt-Out Program

Complainant argues that Act 129 of 2008, 66 Pa. C.S. §§ 2806.1-2807, created an opt-in program as opposed to an opt-out program whereby the General Assembly intended AMI meter deployment to be on a voluntary basis. Complainant Statement No. 1, Complainant Exhibits A and Q. Complainant contends the Commission recognized deployment should be to customers requesting smart meters per Act 129 and cites to the House Bill SB 2200/2807. Additionally, Complainant contends other States have offered residents the freedom of opting-out of a smart meter. Complainant Exhibits A and Q.

Conversely, PPL contends its installation of an AMI Meter is required by Pennsylvania law and that it would not constitute unreasonable or unsafe service to install an AMI Meter on Complainant's property.

### Disposition

The Commission has ruled that there is no provision in the Code, the Commission's Regulations or Orders that allows an electric distribution company's customer to "opt-out" of smart meter installation. 66 Pa.C.S. § 2807(f); *See Bervinchak v. PPL Electric Utilities Corporation*, C-2016-2572824 and C-2016-2577527 (Final Order October 2, 2018, Initial Decision dated August 16, 2018); *Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 at 10 (Order and Opinion entered January 24, 2013); *Povacz v. PECO Energy Company*, Docket No. C-2015-2475023 (ALJ Heep Initial Decision dated January 26, 2018). Moreover, the Commonwealth Court has held that federal law does not preempt the

Commission's interpretation. *See Romeo v. Pa. Pub. Util. Comm'n*, 154 A.3d 422 (Pa. Cmwlth. 2017). The Commonwealth Court did not expressly address whether Mr. Romeo could opt-out of a smart meter installation. The Court held that Mr. Romeo's claim that smart meters cause safety and fire hazards and have a negative health impact, is not legally insufficient pursuant to 66 Pa. C.S. § 1501, which requires utilities to maintain adequate, efficient, safe and reasonable service and facilities for their customers. *Id.*

I infer from the *Romeo* decision, that it is legally sufficient to plead the injunctive relief requested in the instant case and claim that smart meters are generally unsafe and unhealthy, and the installation of them is unreasonable service in violation of 66 Pa. C.S. § 1501. However, the Commonwealth Court did not expressly address the opt-in versus opt-out argument. Although Complainants similarly situated to Mr. Romeo are entitled to an evidentiary hearing, there is Commission precedent that there is no opt-out provision in the current law in Pennsylvania.

The fact that other States have opt-out provisions in their law is noted but is non-binding. The Commission is formulating binding policy through adjudications which constitute binding precedent regarding this issue. *See Crawford v. National Fuel Gas Distribution Corporation*, C-20066348 (Opinion and Order entered December 6, 2007), *citing Pacific Gas & Electric Co. v. FPC*, 164 U.S. App. D.C. 371, 506 F.2d 33 (D.C. Cir. 1974). The Commission has consistently held there is no opt-out provision for similarly situated Complainants in the past. The instant case is more similar than distinguishable from prior decisions wherein the Commission has dismissed similar complaints. *Pennsylvania Trout v. Dep't of Env'tl. Prot.*, 863 A.2d 93 (Pa. Cmwlth. 2004).

On October 15, 2008, Governor Edward G. Rendell signed Act 129 of 2008 into law, which directed EDCs with at least 100,000 customers to file, with the Commission, a smart meter deployment and installation plan. Thus, there is a statute requiring smart meter deployment by large electric distribution companies operating within the Commonwealth. 66 Pa. C.S. § 2807(f).

The implementation of the Respondent's Smart Meter Deployment Plan and the approval of the costs associated with its implementation have been found by the Commission to be in accordance with Act 129 of 2008, 66 Pa. C.S. § 2807(f). The Respondent is required by statute and Commission Order to implement a Smart Meter Program, to install smart meters throughout its service territory, and to charge a Smart Meter Technology Surcharge to all of its metered customers.

As the Commission stated in its April 21, 2016 Opinion and Order in the case of *Frompovich*:

In past cases involving smart meter installation, we have evaluated on an individual case-by-case basis the specific allegations presented in each complaint and reached a conclusion based on those particular circumstances. While PECO is correct that as adopted Act 129 does not provide a general opt out provision, where a complainant's objection to installation of a smart meter was not based upon a general objection to smart meters *per se*, but rather upon facts specific to the individual complainant, we have denied preliminary relief and allowed the complaint to proceed to hearing. *See Kreider v. PECO Energy Company*, Docket No. P-2015-2495064 (Order on Material Question entered September 3, 2015; Order on Reconsideration entered January 28, 2016) (*Kreider*); *Paul v. PECO Energy Company*, Docket No. C-2015-2475355 (Order entered March 17, 2016). As we stated previously, "the law does not prohibit us from considering or holding a hearing on issues related to the safety of smart meters, consistent with our statutory authority in Section 1501 of the Code, when a legally sufficient claim is presented." *Kreider*, Order on Material Question at 17.

As in *Kreider* and *Paul*, Ms. Frompovich has alleged factual averments specific to her that, *if proven*, could implicate, under her particular circumstances, a violation of Section 1501 of the Code, a statute the Commission has jurisdiction to administer.

*Frompovich, supra* at 11-12 (Opinion and Order entered April 21, 2016) (emphasis added).

To the extent that Ms. Jano desires the ability to opt-out of the smart meter installation, she could advocate for such ability before the General Assembly, which is currently considering amending Section 2807(f) in some pending bills including: PA House Bill Nos. 1564 and 1565; and Senate Bill Nos. 443 and 791. Complainant Exhibit A. These bills are not yet law. The Commission has held that it does not have the authority, absent a directive in the

form of legislation, to prohibit the Respondent from installing a smart meter where a customer does not want one. *See Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 (Opinion and Order entered January 24, 2013). The Commission held that similarly situated respondents would be in violation of law if they did not install a smart meter at properties similarly situated to Complainant's residence. *Id.*, *Frompovich* at 7-8. Thus, I find in favor of PPL on this issue.

### Termination of Service

Complainant claims PPL has no right to terminate electric service if she denies PPL access to replace her existing meter. Conversely, Respondent argues it is required to install AMI, or smart meters, for all AMR customers and that it has the right to terminate service for failure of the customer to permit access to the meter.

### Disposition

I agree with PPL that if the Commission denies and dismisses this Complaint, PPL will have a legal right to initiate termination procedures if it is denied reasonable access to the Company's meter per its tariff, the Commission's Regulations, and Chapter 14 of the Public Utility Code. *See* 66 Pa. C.S. § 1406(a)(4); 52 Pa. Code § 56.81(3); PPL Electric Exhibit 3 at 9. s Nos. 6, and 7.

A public utility's Commission-approved tariff is prima facie reasonable, has the full force of law and is binding on the utility and the customer. 66 Pa.C.S. § 316, *Kossmann, supra*; and *Stiteler, supra*.

Rule 10(B)(2)(g) of PPL Electric's tariff states that the Company is authorized to terminate service when: (1) its "representatives cannot gain admittance or are refused admittance to the premises for the purpose of reading meters, making repairs, making inspections, or removing Company property"; (2) "the customer interferes with Company representatives in the performance of their duties;" or (3) "the meters or other equipment of the Company are not

accessible during reasonable hours.” PPL Electric Statement No. 3 at 9, PPL Electric Exhibit KD-5. Similarly, Rule 2F of PPL’s Tariff, Supplement No. 42, Electric Pa. PUC No. 201 provides that PPL “shall have access at all reasonable hours to customer’s premises, without charge for the purpose of inspecting, installations, installing meters, reading, testing, removing, replacing, or otherwise maintaining or disposing of any of Company’s property.” PPL Electric Statement No. 3 at 9, PPL Electric Exhibit KD-4.

It is well-settled that where a customer refuses a utility access to its meter, the utility may terminate service after required notice is provided. The Commission’s Regulations, at 52 Pa. Code § 56.81(3), provide, in pertinent part, the following:

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91-56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer . . . Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

52 Pa. Code § 56.81(3). Additionally, the Commission held in *Frompovich*,

Based on our adjudication of Ms. Frompovich’s claims herein, we find that PECO’s proposed termination of electric service to the Complainant’s service address for the Complainant’s refusal to permit PECO access to its meter, so that PECO’s employees can replace the existing AMR meter with an AMI meter, to be consistent with and authorized under Section 1501 of the Code, the Commission’s Regulations at 52 Pa. Code § 56.81(3), and the Company’s Tariff. We remind PECO, however, that prior to taking any steps related to such termination of service, it must adhere to the applicable provisions of the Commission’s Regulations relating to Notice Procedures Prior to Termination at 52 Pa. Code §§ 56.91-100. In the applicable written notice(s) required under the Commission’s Regulations, PECO is requested to inform or instruct Ms. Frompovich as to how she may avoid termination related to the meter.

*Frompovich* May 3, 2018 Order at 59. Accordingly, given this *stare decisis* precedent, I find in favor of PPL on this issue.

## CONCLUSION

For all of these aforementioned reasons, the complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of this smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501 or otherwise violates the Public Utility Code, a Commission order or regulation or a Commission-approved tariff of the company. Although the Complainant is genuine in her concerns, the Commission's decisions cited above are controlling.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter in this proceeding. 66 Pa. C.S. § 701.

2. PPL Electric Utilities Corporation's smart meter procurement and installation plan, which was approved by Commission Order in the case of *Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015) does not contain a provision for customers to opt-out of smart meter installation.

3. Under Section 332(a) of the Pennsylvania Public Utility Code, the proponent of a rule or order has the burden of proof. 66 Pa. C.S. § 332(a). It is well established that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

4. The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence that makes the existence of a contested fact more likely than its nonexistence. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008) (citation omitted).

5. A person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, “taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive” rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision).

6. In AMI meter-related matters, the Commission has held that “[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015).

7. Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa. C.S. § 701.

8. Complainant has failed to sustain her burden of proof that Respondent violated Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501.

9. The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. *See Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted).

10. When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the

Complainant was adversely affected by the smart meter or whether [the utility's] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 23 (Order entered Jan. 28, 2016) (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13).

11. Under Pennsylvania’s “*Walker Rule*,” it is well-established that “[h]earsay evidence, properly objected to, is not competent evidence to support a finding.” *Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (citations omitted).

12. Even if hearsay evidence is “admitted without objection,” the ALJ must give the evidence “its natural probative effect and may only support a finding . . . if it is corroborated by any competent evidence in the record,” as “a finding of fact based solely on hearsay will not stand.” *Id.* at 370.

13. Complainant has failed to sustain her burden of proof that installing the new AMI meter would violate the Public Utility Code or any Commission regulation or order. *See* 66 Pa. C.S. §§ 332(a), 701.

14. PPL is legally required to install the RF Mesh meter on the Complainant’s property by Act 129 and Commission orders. *See* 66 Pa. C.S. § 2807(f); Smart Meter Procurement and Installation, Docket No. M-2009-2092655, pp. 9, 14 (Order entered June 24, 2009).

15. Nothing in Act 129 permits a customer to “opt-out” of a smart meter installation. *See, e.g., Starr v. PECO Energy Co.*, Docket No. C-2015-2516061, p. 11 (Order Entered Sept. 1, 2016).

16. The Commission previously determined that the Company’s existing PLC meters are not compliant with Act 129 and the Commission’s Smart Meter Implementation Order. *See Petition of PPL Electric Utilities Corporation for Approval of Smart Meter*

*Technology Procurement and Installation Plan*, Docket No. M-2009-2123945, p. 24 (Order entered June 24, 2010).

17. Under the Company's Commission-approved Smart Meter Plan, PPL must replace all of the PLC meters with the RF Mesh meters, which the Commission declared as meeting all of the requirements of Act 129 and the Commission's Smart Meter Implementation Order. *See Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015).

18. The Complainant has failed to demonstrate that the new AMI meter causes, contributes to, or exacerbates any adverse health effect.

19. The Complainant has failed to sustain her burden of proof that installing the new AMI meter would constitute unsafe or unreasonable service in violation of 66 Pa. C.S. § 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Teresa Jano against PPL Electric Utilities Corporation at Docket No. C-2019-3008463 is denied and dismissed.

2. That the docket in this proceeding be marked closed.

Date: December 11, 2019

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/s/  
Elizabeth H. Barnes  
Administrative Law Judge